

### **REMARKS/ARGUMENTS**

Applicants thank the Examiner for the teleconference on October 31, 2007, to clarify the status of the notice of non-responsive amendment issued on July 13, 2007. The undersigned understands that the Final Office Action of July 13, 2007, supercedes the notice of the same date and has calculated the response period based upon the dates set by the Final Office Action.

#### **Status of Claims**

Claims 1-10 were originally filed in the application. Claims 11-16 were previously presented. Claims 1-16 have been examined and stand rejected under various rejections. As outlined above, Claims 13 and 15 are amended; and Claims 4, 5, and 9 are canceled. Therefore, Claims 1-3, 6-8 and 10-16 are pending in this application.

The amended claims are fully supported in the specification as originally filed. Specifically the amendments to Claims 13 and 15 are supported in the specification, for example, at FIG. 13.

#### **Rejections**

Claims 1-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Langdon et al., US Pat. No. 5,500,270 (hereinafter "Langdon"). Applicants respectfully traverse this rejection.

The present invention, as recited in independent Claim 1 relates to a two layer structure for use in absorbent articles, comprising: a fluid permeable first apertured film layer; a fluid permeable second apertured film layer in fluid communication with said first layer, said second layer comprising a substantially planar first surface, a second surface, a caliper defined by a first plane and a second plane, and a first plurality of disconnected macrofeatures having a maximum linear dimension of at least about 0.15mm extending from said substantially planar first surface, said second layer further comprising a plurality of apertures defined by aperture sidewalls, originating in the first surface and extending generally in the direction of the second surface and terminating in the second plane, that are spaced apart from said first layer, wherein said first layer contacts said substantially planar surface of said second at selected areas located between said macrofeatures.

Langdon purports to disclose a capillary laminate material comprising at least two sheets. Col. 2, lines 45-47. A capillary zone between the sheets is established by a spacer element. Col.

2, lines 47-48. The capillary zone for blood or menses should be about 0.003 inches (3 mils). Col. 3 lines 34-35. The dimension of the capillary zone may be varied for particular uses. Col. 7, lines 55-56.

In making the rejection, the Examiner asserted that “maximum dimension...could relate to width, diameter, etc. of the macrofeature” and “Langdon teaches controlling height, frequency, and cross-section of the spacers in order to form a material having a capillary zone.” Paper 20070626, page 5.

Applicants’ macrofeatures, as defined in the instant specification refer to “a surface projection visible to the normal, unaided human eye at a perpendicular distance of about 300mm between the eye and the surface.” Applicants maintain that Langdon’s 3 mil capillary zone and desire to control dimensions of the spacers does not teach or suggest macrofeatures as described in the claimed invention. Specifically, Applicants’ macrofeatures must be visible to the unaided eye as described above. Langdon’s spacers, on the contrary, have no indication of meeting Applicants’ visibility requirement. For example, for a material layer, a small height *or* a small length of a feature could quite possibly render a feature not visible in a manner as described in the instant specification. Understandably, this is especially true for features that define a “capillary space”, exemplified by 3 mils, as described in Langdon. Thus Langdon’s capillary laminate does not teach or suggest a two-layer structure having the macrofeatures as claimed.

Furthermore, with respect to independent Claim 15, as amended, this claim recites apertured macrofeatures. As the Examiner has noted, “the macrofeatures of Langdon are not apertured,” paper 20070626, page 3. Furthermore there is no suggestion to modify Langdon’s spacers in order to make them apertured. Thus, Claims 15 and 16 and Claims dependent therefrom are patentable over Langdon.

The Examiner has provisionally rejected claims 1-16 of the instant application in light of claims 1-4, 7-31, 35-45 of co-pending patent application 10/366,051. While the Applicants do not necessarily agree with the Examiner’s rejections in any regard, nevertheless, because such provisional rejections are the only rejections remaining in view of the above-mentioned amendment and remarks herein, applicants submit such rejections should be withdrawn pursuant to MPEP 804(I)(B), and the instant claims allowed. Should any of the above application issue into a patent prior to allowance of the instant application, the Examiner is requested to contact the undersigned to

allow applicants to consider filing a Terminal Disclaimer, or otherwise overcome any resulting non-provisional double patenting rejection.

Applicants believe that the foregoing presents a full and complete response to the outstanding Office Action. Applicants look forward to an early notice of allowance for this application.

Respectfully submitted,

/Joel A. Rothfus/  
Joel A. Rothfus  
Reg. No. 33,277  
Attorney for Applicants

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(732) 524-2722  
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